

**REMARKS**

Claims 1-17 are pending in the application. Claims 15-17 are withdrawn from consideration. The Examiner objects to claim 3, but states that it would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Applicants thank the Examiner for acknowledging the patentability of Claim 3. Claims 1, 2 and 4-14 are rejected. The Examiner's objection and rejections are addressed below in substantially the same order as in the office action.

**ELECTION/RESTRICTIONS**

Restriction to one of the following inventions is required under 35 USC 121. The Applicants hereby confirm the election to proceed with the prosecution of Claims 1-14.

**REJECTIONS UNDER 35 USC § 102**

Claims 1, 2, 4-13 are rejected under 35 USC § 102(b) as being anticipated by WO 01/94744.

Claims 1, 2, 4-13 are rejected under 35 USC § 102(e) as being anticipated by Heath (2004/0043906).

Claims 1, 2, 9-11 and 13 are rejected under 35 USC § 102(b) as being anticipated by Cantu et al. (US 4,986,354).

The Applicants respectfully traverse the Examiner's §102 rejections by asserting that Claim 3 has been amended and now all of the original remaining claims pend from Claim 3. As the Examiner has acknowledged that Claim 3 is allowable after being amended to include the limitations of Claim 1 and rewritten in independent format, it follows that all of Claims 2-14, the remaining claims are in condition for allowance in under §102 .

**REJECTIONS UNDER 35 USC § 103**

Claims 1, 9 and 14 are rejected under 35 USC § 103(a) as being unpatentable over WO 01/94744, Heath (2004/0043906) or Cantu et al. (US 4,986,354).

The Applicants respectfully traverse the Examiner's §103 rejections by asserting that Claim 3 has been amended and now all of the remaining original claims pend from Claim 3. As

the Examiner has acknowledged that Claim 3 is allowable after being amended to include the limitations of Claim 1 and rewritten in independent format, it follows that all of Claims 2-14, the remaining claims are in condition for allowance in under §103 .

### **CLAIM OBJECTIONS**

Claim 3 is objected to as being dependent upon a rejected base claim. Claims 3 has been amended to include the limitations of Claim 1 and rewritten in independent format. The Applicants now respectfully assert that Claims 2-14 are in condition for allowance over the Examiner's claim objection.

### **NEW CLAIMS**

The Applicants have amended the claims to include two new claims, 18 and 19. New Claim 18 reads substantially similarly to the newly amended and now allowable claim 13 except that the pellets are built to remain suspended in the hydrocarbon portion of the fluid column within an oil and gas well.

A basis for the subject matter of new Claim 18 can be found in the specification at paragraph 14. Claim 19 pends from Claim 18.

The art cited by the Examiner shows that the pellets therein are designed to stay within the denser portions of the fluid column or even within the pores of the reservoir. This is shown in the '354 reference at Col. 3, lines 15-17 wherein the size and possibly the shape of the capsules is used to determine where the capsules will release their additives. In Claim 18 of the present application, the capsules of the present invention are placed in the hydrocarbon layer using their density.

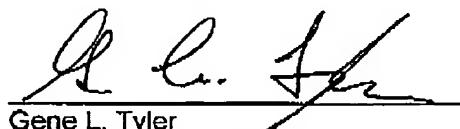
In the '906 reference, at paragraph 6, the capsules are used for sand control and as a proppant for fracturing. They are also placed in gravel packs and the like. This is also dissimilar to placing the capsules using the density of the capsules to maintain the capsules in the hydrocarbon phase of a fluid in a wellbore as is claimed in Claim 18 of the present application.

Finally, the '744 disclosure, uses language similar to the '906 reference regarding capsules placement. The densities are stated to be between 0.9 and 2.0 at page 8, lines 17-21, which would place them firmly in the brine phase or layer of the fluid column. This reference also discloses using the capsules in gravel packs and the like. This is clearly different from the new claim 18 of the present invention.

**CONCLUSION**

For all the foregoing reasons, Applicant submits that the application is in a condition for allowance. A petition and fee for a 1 month extension accompanies this response. No other fee is believed due for this paper. The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 02-0429 (194-28572-US).

Respectfully submitted,

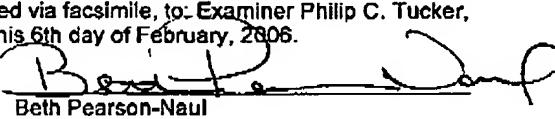


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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I do hereby certify that this correspondence is being transmitted via facsimile, to: Examiner Philip C. Tucker, Commissioner for Patents, facsimile no. (571) 273-8300, on this 6th day of February, 2006.



Beth Pearson-Naul